

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) CIVIL NO.
)
)
DALE DEL BELLO,)
TERRY DEL BELLO,)
)
Defendants.)
)

COMPLAINT TO REDUCE TAX ASSESSMENTS TO JUDGMENT

The United States of America, by and through undersigned counsel, complains and alleges as follows:

1. The United States brings this civil action to reduce to judgment unpaid federal income tax liabilities owed by Dale Del Bello and Terry Del Bello (“the Defendants”).
2. This action is authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought at the direction of a delegate of the Attorney General of the United States in accordance with 26 U.S.C § 7401.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear the action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. § 7402(a).

4. Pursuant to 28 U.S.C. §§ 1391(b) and 1396, venue is proper in this Court because the Defendants reside in Pinellas County, within this District, and the tax liabilities at issue accrued in this District.

REDUCE DEFENDANTS' FEDERAL INCOME TAX LIABILITIES TO JUDGMENT

5. Defendants filed joint federal income tax returns (Forms 1040) for tax years 2000 through 2004, reported a tax liability on each, but failed to pay the taxes reported owing. Defendants' tax returns for tax years 2000 and 2002 were timely filed but the tax returns for tax years 2001, 2003 and 2004 were filed after the due date.

6. On the dates and in the amounts set forth in the following table, a delegate of the Secretary of the Treasury properly assessed against Defendants the federal income tax liabilities, plus interest and statutory additions, as follows:

TAX TYPE	TAX PERIOD	ASSESSMENT DATE	ASSESSED TAX	ASSESSED INTEREST	ASSESSED PENALTY	BALANCE DUE AS OF 04/15/2019
1040	2000	07/30/2001 04/19/2010 12/09/2013	\$63,065.00 \$42,318.00	\$11,735.46	\$4,232.00*** \$5,346.70**	\$48,258.56
1040	2001	11/18/2002 04/19/2010 12/09/2013	\$63,606.00 \$76,968.00	\$21,073.79	\$9,148.00*** \$19,242.00**	\$174,767.82
1040	2002	08/04/2003 04/19/2010 12/09/2013	\$9,958.00 \$95,740.00	\$26,762.50	\$19,192.00*** \$23,935.00**	\$228,406.01
1040	2003	02/07/2005 03/23/2010 12/09/2013 12/08/2014	\$14,199.00 \$128,080.75	\$555.22 \$67,136.63 \$33,833.47 \$9,017.77	\$1,903.23* \$270.00^ \$679.90** \$17,151.00*** \$19,212.11* \$31,555.46**	\$362,222.18

		12/21/2015		\$9,654.57		
1040	2004	11/28/2005	\$3,254.00	\$107.27	\$145.26* \$92.00^ \$112.98**	
		04/19/2010	\$53,882.00	\$22,352.45	\$8,759.00*** \$2,694.00* \$13,415.44**	\$134,418.54
		12/09/2013 12/08/2014 12/21/2015		\$11,303.99 \$3,413.64 \$3,654.69		
					TOTAL:	\$948,073.11

*Late filing penalty

^Estimated tax penalty

**Failure to pay penalty

***Accuracy-related
penalty

7. A delegate of the Secretary of the Treasury gave notice to Defendants of the unpaid liabilities described in paragraph 6 and made demand for their payment pursuant to 26 U.S.C. § 6303. Despite notice and demand for payment, Defendants failed to pay the liabilities owed.

8. Together with penalties and interest accrued through April 15, 2019, Defendants, jointly and severally, owe the United States \$948,073.11 for their unpaid federal income tax liabilities for tax years 2000 through 2004. Pursuant to 26 U.S.C. § 6621, interest and statutory additions will continue to accrue until the liabilities are paid in full.

9. Although 26 U.S.C. § 6502 provides that the United States normally has ten years from the date of assessment to bring a proceeding in court to collect an unpaid tax, that period may be tolled or suspended. The liabilities with respect to assessments made before March 23, 2010 and April 19, 2010 are listed in paragraph 6 but have been satisfied. The remaining liabilities were assessed on March 23, 2010 and April 19, 2010. Defendants filed a bankruptcy petition on June 10, 2009. Because Defendants were in bankruptcy at the time of assessment, collection was stayed. *See* 26 U.S.C. § 6503(h). Defendants' bankruptcy case closed on March

16, 2011. The ten-year statute of limitations began on September 16, 2011, six months following the close of the bankruptcy case. *See* 26 U.S.C. § 6503(h)(2). For the remaining assessed liabilities, the collection statute of limitations concludes on September 16, 2021.

WHEREFORE, Plaintiff, United States of America, respectfully prays that this Court:

- A. Enter judgment in favor of the United States of America and against Defendants Dale and Terry Del Bello, jointly and severally, for unpaid federal income tax liabilities in the amount of \$948,073.11 as of April 15, 2019, plus interest and statutory additions as allowed by law until paid; and
- B. Award the United States its costs incurred in connection with this action, along with such other relief as justice requires.

Dated: April 17, 2019

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Elizabeth N. Duncan
ELIZABETH N. DUNCAN
Virginia State Bar No. 90685
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 14198
Washington, D.C. 20044
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Elizabeth.N.Duncan@usdoj.gov

Of Counsel:

MARIA CHAPA LOPEZ
United States Attorney
Middle District of Florida

JS 44 (Rev. 11/15) The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS		DEFENDANTS																								
<p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p>		<p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>																								
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
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V. ORIGIN (Place an "X" in One Box Only)				<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation																						
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:																								
VII. REQUESTED IN COMPLAINT: IF ANY <i>(See instructions):</i>		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No	CHECK YES only if demanded in complaint: DOCKET NUMBER _____																						
DATE		SIGNATURE OF ATTORNEY OF RECORD																								
FOR OFFICE USE ONLY																										
RECEIPT # _____		AMOUNT _____		APPLYING IFF _____																						
				JUDGE _____																						
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No.

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

- I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or
- I left the summons at the individual's residence or usual place of abode with (*name*) _____,
_____, a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or
- I returned the summons unexecuted because _____; or
- Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
for the

District of

Plaintiff(s)

V.

Civil Action No.

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

- I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or
- I left the summons at the individual's residence or usual place of abode with (*name*) _____,
a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or
- I returned the summons unexecuted because _____; or
- Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: